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3 UNITED STATES DISTRICT COURT  
4 DISTRICT OF NEVADA

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6 NORMAN SMITH,

Case No. 3:18-cv-00082-MMD-WGC

7 Petitioner,

ORDER

8 v.

9 RENEE BAKER, *et al.*,

10 Respondents.

11 Petitioner has filed a petition for a writ of habeas corpus pursuant to 28 U.S.C.  
12 § 2254 (ECF No. 1). The Court has reviewed it pursuant to Rule 4 of the Rules Governing  
13 Section 2254 Cases in the United States District Courts. The Court will serve the petition  
14 upon respondents for a response.

15 Petitioner has filed a motion for appointment of counsel.<sup>1</sup> Whenever the court  
16 determines that the interests of justice so require, counsel may be appointed to any  
17 financially eligible person who is seeking habeas corpus relief. 18 U.S.C. §  
18 3006A(a)(2)(B). “[T]he district court must evaluate the likelihood of success on the merits  
19 as well as the ability of the petitioner to articulate his claims pro se in light of the complexity  
20 of the legal issues involved.” *Weygandt v. Look*, 718 F.2d 952 (9th Cir. 1983). There is  
21 no constitutional right to counsel in federal habeas proceedings. *McCleskey v. Zant*, 499  
22 U.S. 467, 495 (1991). The factors to consider are not separate from the underlying claims,  
23 but are intrinsically enmeshed with them. *Weygandt*, 718 F.2d at 954. After reviewing the  
24 petition, the Court finds that appointment of counsel is not warranted.

25 Petitioner has filed an application to proceed *in forma pauperis* (ECF No. 2). The  
26 application is moot because petitioner has paid the filing fee.

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28 <sup>1</sup>The motion for appointment of counsel currently is in the middle of the petition,  
(ECF No. 1, at 4-6.)

1 It is therefore ordered that the Clerk of the Court file the motion for appointment of  
2 counsel, which currently is pages 4-6 of ECF No. 1.

3 It is further ordered that the motion for appointment of counsel is denied.

4 It is further ordered that the application to proceed *in forma pauperis* (ECF No. 2)  
5 is denied as moot.

6 It is further ordered that the Clerk add Adam Paul Laxalt, Attorney General for the  
7 State of Nevada, as counsel for respondents.

8 It is further ordered that the Clerk electronically serve upon respondents a copy of  
9 the petition and this order. In addition, the Clerk must return to petitioner a copy of the  
10 petition (ECF No. 1).

11 It is further ordered that respondents will have forty-five (45) days from the date on  
12 which the petition was served to answer or otherwise respond to the petition.  
13 Respondents must raise all potential affirmative defenses in the initial responsive  
14 pleading, including untimeliness, lack of exhaustion, and procedural default. Successive  
15 motions to dismiss will not be entertained. If respondents file and serve an answer, then  
16 they must comply with Rule 5 of the Rules Governing Section 2254 Cases in the United  
17 States District Courts, and then petitioner will have forty-five (45) days from the date on  
18 which the answer is served to file a reply. If respondents file a motion, then petitioner will  
19 have fourteen (14) days to file a response to the motion, and respondents will have seven  
20 (7) days from the date of filing of the response to file a reply.

21 It is further ordered that, notwithstanding Local Rule LR IC 2-2(g) paper copies of  
22 any electronically filed exhibits need not be provided to chambers or to the staff attorney,  
23 unless later directed by the Court.

24 DATED THIS 20<sup>th</sup> day of June 2018.

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27 MIRANDA M. DU  
28 UNITED STATES DISTRICT JUDGE